

Minutes of Property & Facilities Committee Meeting

**The Board of Trustees
Kilgore Junior College District**

A Property & Facilities Committee Meeting of the Board of Trustees of Kilgore Junior College District was held Thursday, October 13, 2016, beginning at 5:30 PM in the R.E. "Sonny" Spradlin, Jr. Executive Board Room with the following board members present:

Joe Carrington
Lon Ford
Brian Nutt
Karol Pruett, Secretary
Cecelia Sanders
James Walker, Vice President
Larry Woodfin, President

Board Members Absent: Scott Andrews and Bob Heath

I. CALL TO ORDER

The meeting was called to order at 5:30pm by Brian Nutt. The Board immediately convened into Executive Session.

II. EXECUTIVE SESSION

Adjournment to executive session pursuant to Texas Government Code Sections 551.071 - 551.084, the Open Meetings Act, for the following purposes:

"The Board has adjourned to executive session at 5:30 p.m. on October 13, 2016."

PERSONNEL: (Government Code 551.074)

LEGAL: (Government Code 551.071)

Correspondence from Department of Education

REAL ESTATE: (Government Code 551.072)

RECONVENING IN OPEN MEETING

"The Board has reconvened in open session at 5:50p.m. on October 13, 2016."

IF, DURING THE COURSE OF THE MEETING COVERED BY THIS NOTICE, THE BOARD SHOULD DETERMINE THAT A CLOSED OR EXECUTIVE MEETING OR SESSION OF THE BOARD SHOULD BE HELD OR IS REQUIRED IN RELATION TO ANY ITEM INCLUDED IN THIS NOTICE, THEN SUCH CLOSED OR EXECUTIVE MEETING OR SESSION AS

AUTHORIZED BY SECTION 551.001 ET SEQ. OF THE TEXAS GOVERNMENT CODE (THE OPEN MEETINGS ACT) WILL BE HELD BY THE BOARD AT THAT DATE, HOUR AND PLACE GIVEN IN THIS NOTICE OR AS SOON AFTER THE COMMENCEMENT OF THE MEETING COVERED BY THIS NOTICE AS THE BOARD MAY CONVENIENTLY MEET IN SUCH CLOSED OR EXECUTIVE MEETING OR SESSION CONCERNING ANY AND ALL SUBJECTS AND FOR ANY AND ALL PURPOSES PERMITTED BY SECTIONS 551.071-551.084, INCLUSIVE, OF THE OPEN MEETINGS ACT.

Should any final action, final decision, or final vote be required in the opinion of the Board with regard to any matter considered in such closed or executive meeting or session, then such final action, final decision, or final vote shall be at either:

- a. the open meeting covered by this notice upon the reconvening of this public meeting, or
- b. at a subsequent public meeting of the Board upon notice thereof, as the Board shall determine.

No action was taken in Executive Session.

III. PROPERTY & FACILITIES DISCUSSION

Brian Nutt requested that Item C be first on the agenda for discussion as the college attorney was present for that item.

A. Jeff Williams, Update from Environmental Safety, Construction & Facilities Manager

Jeff introduced himself and provided the following updates:

- **There are no immediate concerns regarding asbestos. Record keeping and documentation seems to be in order.**
- **Attention needs to be given to general organization and cleanup at Dodson Auditorium, including electrical and theatrical equipment.**
- **Safety: handrails around campus need repair.**
- **KC is in really good shape. No major regulatory or safety issues are apparent.**
- **Area of concern: Quad units. There are 8 quad units. 6 of them need updated HVAC units. They need P-tac units. It is not an easy, cheap or overnight project.**
- **Kilgore Commons: worked out some details with instructors who are moving over there to speed up the process. Less involvement with structure and dollars. Instead of removing entire walls, add doors.**
- **Technical Vocational Building: floors, ceilings, and lighting need to be updated. City has been contacted and have an idea of the plan.**
- **Working with SSC on outstanding work orders and preventative maintenance issues for every building.**

B. Energy Management Discussion

- **Administration's intent is to put out an RFP for an Energy Management Program. Any acceptance of a proposal is expected to be a very large financial commitment.**
- **A proposal will be brought back to a full board meeting for the board to formally approve.**

C. Update on EPA Peer Review Audit

Kilgore College Attorney, Rick Faulkner was present to give an update on EPA Peer Review Audit.

- 2014 – A law firm was retained who had a consortium with an environmental firm that did EPA testing for colleges around the country. They have audited 50+ institutions in the State of Texas. They performed an environmental audit for Kilgore College. The environmental audit is a peer process. The Federal and State Governments have acknowledged that if you have these trained examiners come to your facility and go through a process of examining your facility and reporting to the EPA and state agency that they would grant some immunity from any fines. It is purely a voluntary process.
- KC's audit took place in October, 2014. Several KC employees were involved in the on-site audit process as well as trained auditors from other institutions.
- The next step would have been a draft of a report written by the attorney, who at that time was Goldberg & Segalla and HRP, to the institution to advise them if any violations had been found. At that point, the college would have determined how they wanted to continue with the process. Next, it would have been turned over to the college for any needed cleanup work. Then, a final report would have been written and given to the college. The reports would then be filed with the EPA, which would have triggered certain deadlines for cleanup and reporting.
- It was not the normal process for KC. The normal process was interrupted. Shortly after the initial process was done, there were allegations of mishandling of asbestos at Kilgore College.
- KC then pulled in ERI, a consulting firm, to get involved.
- Shortly after that, TCEQ and TSDHS opened investigations. With those investigations in motion, the peer audit was sidetracked.
- No reports were written by HRP because of the investigations.
- TCEQ wrapped up their investigation in the spring of 2015 and deferred to TSDHS whose investigation was wrapped up in December of 2015.
- An audit is a snapshot in time. The data had become old by that time and the required timelines for reports to be submitted had elapsed.
- The college was left with an incomplete process and no way to revive the proper process. KC contacted HRP late in the spring of 2016 to do an on-site inspection in July, 2016.
- KC has received a letter documenting the results from that inspection.
- In a normal setting this would be a privileged report by statute.
- The college decided they wanted the report to be made non-privileged. They wanted the report to be made public.
- The environmental compliance letter is attached below.
- Their primary finding is first and foremost that, "there is no immediate threat to human health or the environment. The nature of the deficiencies is benign and pertains mostly to record keeping, labeling, and storage violations.
- The violations that Kilgore College had in housekeeping matters or record keeping matters were significantly below the average in institutions of comparable size.
- Dr. Kays made the following statement, "I am pleased to announce that the EPA Peer Review for Kilgore College has been completed and according to the finalized report, even with our multiple campuses, it reveals environmental compliance "consistent with or better than other participating colleges." The report does

mention some “housekeeping” issues, but the report states that these minor issues are of no immediate threat to human health or the environment. The report notes that the minor issues found at KC are “the exact same character and nature of deficiencies found at every college audit ever conducted under the program.” We regret that the report was delayed in completion until now, but with the lengthy investigations and multiple agencies working on the final report, it simply took longer to complete than expected. I am confident that our students, faculty and staff are in a safe environment conducive to learning and the college will continue to strive to guarantee a safe environment in the future. Again, we are glad the completed report was extremely favorable to Kilgore College and we’re looking forward to getting on with the business of education and student success.”

Kilgore College – Environmental Compliance on next page.

October 11, 2016

VIA EMAIL ONLY

Rickey L. Faulkner
Coghlan Crowson LLP
1127 Judson Road
Suite 211
Longview, TX 75601

RE: KILGORE COLLEGE - ENVIRONMENTAL COMPLIANCE

Dear Attorney Faulkner:

This correspondence serves to update you on a recent environmental compliance check at Kilgore College, as well as to provide context and history with respect to Kilgore College's participation in the Independent Colleges & Universities of Texas (ICUT) sponsored Environmental Peer-Audit Program.

BACKGROUND AND HISTORY

As you know, college campuses are akin to small cities requiring compliance with a myriad of ever-changing environmental regulations. Recognizing the challenges that higher education faces in this arena, the U.S. Environmental Protection Agency ("EPA") implemented a college and university initiative to encourage institutions to seek amnesty from fines and penalties under the EPA's "Audit Policy."¹ One of EPA's primary goals under the initiative was to ensure that our nation's students are graduating from institutions at which environmental compliance is not only understood, but integrated as a matter of course into campus life.

In the traditional sense, in order to take advantage of the Audit Policy, a college would retain an outside consultant to conduct an audit and perform corrective actions. That set-up resulted in significant financial output and minimal long-term changes. As a result, Goldberg Segalla LLP and HRP Associates, Inc. developed a peer-audit program that addresses both issues by training and utilizing on-campus personnel to conduct audits at peer colleges under a negotiated agreement with the government agencies. The peer structure provided numerous benefits, not the least of which was training targeted to higher education, better institutional experience, on-site retention of knowledgeable employees, and collaboration between institutions. To date, the peer-audit program has been run with great success in 13 states for over 300 colleges.² Tens of millions in fines have been waived for participating institutions.

¹ The EPA policy is formally titled "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations." TCEQ's sister policy is entitled, "Texas Environmental Health and Safety Audit Privilege Act."

² In addition to the Texas, Oklahoma, and Arkansas colleges in the ICUT program, the program has been run in New Jersey, Pennsylvania, North Carolina, Georgia, Florida, Alabama, Tennessee, Kansas, Michigan, Indiana, as well as a consortium of west-coast Christian colleges

Kilgore College – Environmental Compliance cont.

With respect to Texas, the program was coordinated through and in partnership with ICUT. Fifty-three (53) Texas colleges and universities agreed to participate, including Kilgore College. The Texas audits commenced in March 2010 and proceeded at a pace of approximately five audits per semester. The last audit was conducted in November 2014. Please note, participation in the program did not obligate that a disclosure must be filed. The disclosure process is and was entirely voluntary. Several institutions opted to participate in the training and undergo an audit without filing a formal disclosure.

Kilgore College's Peer-Audit

Kilgore College was the 51st audit in the program, which took place between October 7, 2014 and October 9, 2014. During the audit, a professional auditor from HRP as well as trained peer-auditors investigated the environmental condition of Kilgore College. Following the audit, as with every audit under the program, HRP undertook to investigate a number of follow-up items. An audit is not completed until all potential issues are fleshed out and paperwork obtained and reviewed. These efforts typically involve, for example, permit reviews, coordination with the local water-treatment centers, and assessment of air quality sources. An audit report cannot be drafted and EPA and TCEQ do not generally accept an audit disclosure until an investigation is 100% complete.

Subsequent to the on-site peer audit at Kilgore College and prior to preparation of the audit report, allegations concerning Kilgore College's handling and disposal of asbestos were published. Kilgore College immediately contacted its contractor, Engineering Research Institute (ERI) to request an assessment of the asbestos allegations. ERI is an engineering firm that specializes in assisting school districts with Asbestos Hazard Emergency Response Act (AHERA) regulations and had performed prior asbestos assessments at Kilgore College. ERI's air sampling revealed no danger to human health or safety concerns for students and staff.

At the same time, the Texas Department of State Health Services (TDSHS) and Texas Commission on Environmental Quality (TCEQ) performed their own independent investigation of the allegations. TCEQ noted a small number of non-asbestos concerns related to waste disposal and documentation. Finding that Kilgore College had made the required corrective actions, TCEQ concluded its investigation in March 2015. Thereafter, TSDHS concluded its investigation on December 1, 2015 issuing a report stating that "evidence was not found to support the allegations that a violation of the Texas Asbestos Health Protection Act and Rules" and that "the matter has been closed."

Unfortunately, as a result of the lengthy investigation, remediation efforts, and the pendency of the TCEQ/TDSHS asbestos investigations, the audit report from the October 7-9, 2014 audit was never drafted and the time to file under the respective audit policies passed. Moreover, once the TCEQ/TDSHS investigation was completed in December 2015, any findings from October 2014 were "stale" as an audit can only represent a "snapshot" in time; the passage of too much time rendered the audit results unreliable.

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COMPLIANCE CHECK – JULY 27-28, 2016

In light of the above, Kilgore College opted to conduct a follow-up compliance check in July 2016. The compliance check was conducted on July 27-28, 2016 and the results were reported to me thereafter. The scope of the review was focused on compliance documentation and a “spot check” of campus practices as they pertain to the following federal, state, and local regulatory programs:

- Clean Air Act (CAA) Air Pollution Control Regulations and Standards including Federal NESHAP and NSPS programs
- Clean Water Act (CWA): including Storm Water discharges, Sewer discharges, and Spill Prevention, Control and Countermeasure (SPCC)
- Emergency Planning and Community Right-to-Know Act (EPCRA)
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
- Resource Conservation and Recovery Act (RCRA) including solid and Hazardous Waste & Underground Storage Tanks (UST)
- Safe Drinking Water Act (SDWA)
- Toxic Substances Control Act (TSCA)
- Medical Waste Regulations

The compliance check revealed that Kilgore College is meeting or exceeding many of its regulatory obligations, including with respect to community planning reporting, insecticide use, air permit-by-rules, and medical waste collection and laboratory waste management. There are, not unexpectedly, certain areas in which improvement is recommended. The results of the spot-check are attached in a table to this letter.

Please note, the compliance issues noted during the spot check are the exact same character and nature of deficiencies found at every college audit ever conducted under the program. On average, for the over 300 college peer-audits nationwide, including the 53 in Texas, the audits resulted in approximately 75 to 125 violations. Some colleges reached several hundred violations. In this case, the spot check conducted at Kilgore College, even with its multiple campuses, revealed environmental compliance consistent with or better than other participating colleges.

More importantly, there is no immediate threat to human health or the environment. The nature of the deficiencies is benign and pertains mostly to: 1) record-keeping, 2) labeling, and 3) storage violations. Those three categories of “house-keeping” violations are far and away the biggest source of violations for college campuses because compliance is dependent on a broad cross-section of employees across multiple departments. However, these “housekeeping” violations, while important, rarely lead to significant environmental impact.

SUMMARY & CONCLUSIONS

- Kilgore College underwent an ICUT peer-audit in 2014.
- Prior to drafting the peer-audit report, complaints about Kilgore College’s asbestos handling were made public. As a result, Kilgore, TDSHS, and TCEQ undertook an investigation.
- The asbestos investigations by the TCEQ and TDSHS concluded that evidence was not found to support the allegations that a violation of the Texas Asbestos Health Act and Rules occurred and the matters have been closed.
- Due to the length of the asbestos investigation, the peer-audit was not completed and no formal report was drafted. Accordingly, no disclosures were made under either the EPA or TCEQ audit policies.

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Kilgore College – Environmental Compliance cont.

- A follow-up compliance check was completed on July 27-28, 2016.
- The compliance check revealed a number of areas where Kilgore College is meeting and exceeding expectations, and some areas where improvement is recommended.
- The areas of recommended improvement are benign in nature and generally relate to paperwork and “house-keeping” type violations.
- Kilgore College’s environmental compliance is consistent with or better than its peer-institutions in Texas.
- The areas of improvement are of the exact same character and type of deficiencies found across the 53 college audits conducted in Texas, and indeed are common to the 300 audits conducted across the country.
- There is no imminent threat to human health or the environment.

It was a pleasure working with you on this project. If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,



Troy A. Bataille

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Kilgore College – Environmental Compliance cont.

**KILGORE COLLEGE
ENVIRONMENTAL COMPLIANCE CHECK
JULY 27-28, 2016
TABLE OF RECOMMENDATIONS**

<u>Clean Air Act</u>	
<u>Meeting Obligation</u>	<u>Recommended Improvement</u>
<ul style="list-style-type: none"> ▪ Identified and claimed state PBRs Records were available and proper for recent abatement / renovation / demolition activities, including: <ul style="list-style-type: none"> ○ state notifications ○ air sampling ○ disposal manifests 	<ul style="list-style-type: none"> ▪ Unknown installation date for emergency generator. If after 1/1/2009 NESHAP/NSPS may apply ▪ Refrigerant logs and leak rate assessment not maintained
<u>Emergency Planning and Community Right to Know Act</u>	
<u>Meeting Obligation</u>	<u>Recommended Improvement</u>
<ul style="list-style-type: none"> ▪ Tier II reports 	<ul style="list-style-type: none"> ▪ None
<u>Federal Insecticide, Fungicide, and Rodenticide Act</u>	
<u>Meeting Obligation</u>	<u>Recommended Improvement</u>
<ul style="list-style-type: none"> ▪ Onsite physical plant contractor, SSC – not applying pesticides. All contracted off site and licenses available 	<ul style="list-style-type: none"> ▪ None
<u>Resource Conservation and Recovery Act</u>	
<u>Meeting Obligation</u>	<u>Recommended Improvement</u>
<ul style="list-style-type: none"> ▪ Laboratory wastes well managed ▪ Waste stream determinations available for review 	<ul style="list-style-type: none"> ▪ Waste streams need to be reviewed and updated ▪ Some areas of “obsolete waste” identified ▪ 2014 – participated in one-time waste clean out program. Submit follow up waste summary report to TCEQ ▪ 2016 - disposed of 30 lbs. of P-waste per manifest reviewed. On two occasions, had on site > 2.2 lbs. of p-listed waste ▪ Longview Center has out of service UST in need of closure (unregistered, out of service for >20 years)

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Kilgore College – Environmental Compliance cont.

	<ul style="list-style-type: none"> ▪ Used oil at auto shop labeled as “waste oil.” Smaller pans with used oil not labeled ▪ Universal waste lamps need appropriate labels and packaging. ▪ Universal waste batteries not labeled or dated (physical plant and auto shop) ▪ Universal waste paint and paint related waste not properly maintained
<u>Safe Drinking Water Act</u>	
Meeting Obligation	Recommended Improvement
<ul style="list-style-type: none"> ▪ Drinking water from city 	<ul style="list-style-type: none"> ▪ Records of backflow prevention not available
<u>Toxic Substance Control Act</u>	
Meeting Obligation	Recommended Improvement
	<ul style="list-style-type: none"> ▪ Storage and disposal of PCB ballast but not separated from other ballasts ▪ Lead based paint disclosure records for target housing and child development center ▪ 2 hr asbestos awareness training not completed for physical plant employees
<u>Medical Waste</u>	
Meeting Obligation	Recommended Improvement
<ul style="list-style-type: none"> ▪ Collecting/ disposing of med waste 	<ul style="list-style-type: none"> ▪ Notification of autoclave and logs not available
<u>Other</u>	
Meeting Obligation	Recommended Improvement
	<ul style="list-style-type: none"> ▪ Firing range needs Best Management Practices per EPA

5650788.1


D. Discussion regarding status of property on Highway 259

- **Adult Education Center Building (AEC):** a plan is being developed to shift the functions that are currently being held in that building to an on campus sight. The AEC building has multiple issues.
- **Child Development Center (ECDC):** Administration does not know of a way to repurpose that facility.
- **Administration will look at ways to best dispose of the property.** Any final proposal will be presented to the board at a later date. The college may want to consider restricting the future use of that property when it is disposed of.
- **Any future consideration of property purchases would need to be advantageous to our instructional strategies or at an extremely favorable price.**


IV. ADJOURNMENT

Brian Nutt adjourned the meeting at 7:00pm.

Respectfully submitted,



President of the Board



Secretary of the Board



Nancy Law, Recording Secretary
Kilgore College Board of Trustees